TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 927 - SB 1175

February 28, 2017

SUMMARY OF BILL: Changes the statutory apportionment formula, for tax years beginning on or after July 1, 2017, used by small businesses to calculate the portion of net earnings and net worth apportioned to Tennessee for franchise and excise (F&E) tax purposes from a three-factor formula to a single-sales-factor formula.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue – $1,652,000/FY17-18
$4,604,000/FY18-19
$3,800,000/FY19-20
$3,008,000/FY20-21
$2,990,000/FY21-22 and Subsequent Years

Other Fiscal Impact – Secondary economic impacts may occur as a result of this bill. Due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

Assumptions:

- Under current law, a taxpayer's net earnings and net worth are apportioned to this state using a three-factor formula that considers the taxpayer's sales, property, and payroll, with the sales factor triple-weighted.
- This bill will, for tax years beginning on or after July 1, 2017, eliminate the property and payroll factors and implement the single-sales-factor formula for small businesses, as defined in Tenn. Code Ann. § 8-4-701, where net earnings and net worth are apportioned to this state based on the taxpayer's Tennessee sales as a proportion of its total sales in the United States.
- Pursuant to Tenn. Code Ann. § 8-4-701, small business means a business entity, including its affiliates, that employs 50 or fewer full-time employees. However, this definition does not require that all such employees are employed in Tennessee.
- The Department of Revenue (DOR) does not have data on the number of employees of F&E taxpayers. However, based on the median wage in Tennessee in 2015 of $31,818, as reported by jobs4tn.gov, it is assumed that for a business entity to qualify as a small business, the business must have some reported payroll in Tennessee on its F&E tax

return and the total payroll for the business (including out-of-state payroll) must be $1,590,900 or less ($31,818 x 50).

- Using the above criteria, and based on information provided by the DOR, the recurring decrease in state revenue is estimated to be $2,990,000.
- However, due to the estimated payment requirements of the current law, anticipated taxpayer response to the tax formula change, and the fact that the F&E tax year is based on the taxpayer's fiscal year, the initial impact of changing the apportionment formula is spread over several state fiscal years. The resulting decrease in state revenue is estimated to be: $1,652,000 in FY17-18; $4,604,000 in FY18-19; $3,800,000 in FY19-20; $3,008,000 in FY20-21; and $2,990,000 in FY21-22 and subsequent years.
- All of the technology changes required by this bill can be accomplished utilizing existing resources without an increased appropriation or a reduced reversion.
- There could be subsequent impacts on state and local government revenue and expenditures as a result of secondary economic impacts prompted by the passage of this bill. Due to multiple unknown factors, the fiscal impacts attributable to such secondary impacts cannot be quantified with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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